

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**JODI M. KASHUBA,**

**Plaintiff**

**v.**

**NANCY A. BERRYHILL,  
Acting Commissioner of  
Social Security,**

**Defendant<sup>1</sup>**

**No. 3:16cv1924**

**(Judge Munley)**

**(Chief Magistrate Judge Schwab)**

**ORDER**

**AND NOW**, to wit, this 1 day of November 2017, we have before us for disposition Chief Magistrate Judge Susan E. Schwab's report and recommendation (Doc. 14), which proposes that plaintiff's request for a new administrative determination in her social security appeal be granted, and the Commissioner of Social Security's final decision denying her application for benefits be vacated.

The defendant waives her opportunity to object to Chief Magistrate Judge Schwab's report and recommendation. (Doc. 15). Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the

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<sup>1</sup> Carolyn Colvin was the Acting Commissioner of Social Security at the time plaintiff filed this case. Thus she was the originally named defendant. Since then, Nancy A. Berryhill has assumed the Acting Commissioner position. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure and 42 U.S.C. § 405(g), Berryhill is automatically substituted as the named defendant.

record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

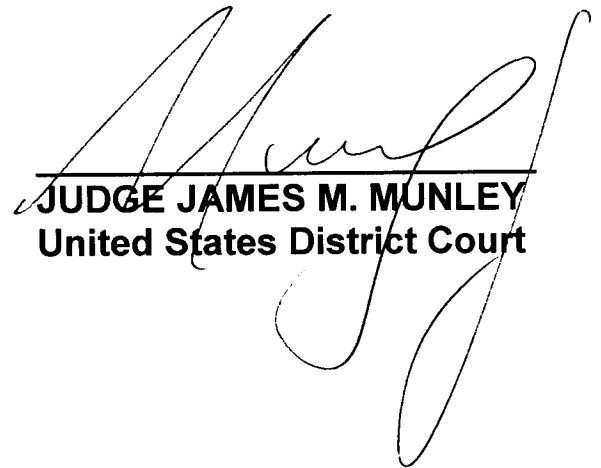
1) The chief magistrate judge's report and recommendation (Doc. 14) is **ADOPTED**;

2) Plaintiff's appeal is **GRANTED** and the Commissioner of Social Security's decision denying plaintiff Social Security disability insurance and supplemental security income benefits is **VACATED**;

3) The Clerk of Court shall enter judgment in favor of Plaintiff Jodi M. Kashuba and against the Commissioner of Social Security; and

4) The Clerk of Court is further directed to **REMAND** this case to the Commissioner of Social Security to conduct a new administrative hearing pursuant to sentence four of 42 U.S.C. § 405(g).

BY THE COURT:



**JUDGE JAMES M. MUNLEY**  
**United States District Court**